



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

May 22, 2008

VIA EMAIL AND FACSIMILIE AT 44700-596-8880

Victor McCormack
Phonejammer.com

Re: File No. EB-07-SE-031

Dear Mr. McCormack:

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 503(b)(5), to Phonejammer.com ("Phonejammer") for marketing in the United States unauthorized radio frequency devices in violation of section 302(b) of the Act, 47 U.S.C. § 302a(b), and section 2.803 of the Commission's rules ("Rules"), 47 C.F.R. § 2.803, and for failing to respond to Enforcement Bureau directives to provide certain information and documents. As explained below, future violations of the Commission's rules in this regard may subject your company to monetary forfeitures.

By letter of inquiry ("LOI") dated November 6, 2007, the Spectrum Enforcement Division ("Division") of the Commission's Enforcement Bureau initiated an investigation into whether Phonejammer is marketing in the United States unauthorized radio frequency devices, specifically, radio frequency jammers which can disrupt communications on cellular and Personal Communications Service frequencies. At the time of that letter, November 6, 2007, and again on, May 20, 2008, we observed on your website, www.phonejammer.com, advertisements for the sale of multiple radio frequency jammers. Your advertisements for the phone jammers listed shipping costs to the United States and displayed product prices in United States dollars. In addition, your website provided testimonials from United States residents who had purchased your phone jammers.

In response to our LOI, you sent the Division three emails, one received on November 6, 2007, one received on November 7, 2007, and one received on November 8, 2007. In these emails, you claimed that your company is based in the United Kingdom and that you do not distribute, market, or advertise the phone jammers in the United States.

In a response email sent by the Division, you were instructed to answer each question in the LOI. Further, the November 6, 2007 LOI directed you to support answers with an affidavit or declaration to be signed under penalty of perjury by an officer of the company who has personal knowledge of the representations and can verify that the company has produced all the information requested that is within its possession, custody, control, or knowledge. Though your reply emails indicate that you received our LOI, you subsequently failed to respond to the questions set forth in the LOI.

Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators¹ must be authorized in accordance with the Commission’s certification procedures prior to the initiation of marketing² in the United States. Based on your failure to provide FCC Identification numbers or other documentation showing that the jammers you market have been certified, as well as our review of the Commission’s equipment authorization database, it appears the devices advertised on www.phonejammer.com have not been certified. Moreover, it does not appear that these devices are capable of receiving a grant of certification. In this regard, the main purpose of cell phone and other wireless jammers is to block or interfere with radio communications. Such use is clearly prohibited by section 333 of the Act, 47 U.S.C. § 333, which states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.” Thus, a device such as a jammer which intentionally interferes with radio communications is not eligible for certification.³ Accordingly, it appears that Phonejammer has violated section 302(b) of the Act and section 2.803 of the rules by marketing in the United States the unauthorized radio frequency devices listed on its website.

We note that the evidence before us contradicts Phonejammer’s claim that it is not marketing its jammers in the United States. In this regard, we note, among other things, that Phonejammer’s website: (1) lists all phone jammer prices in United States dollars; (2) at check-out has the United States as the default shipping location; (3) includes testimonials of United States residents who have purchased its phone jammers; and, (4) advertises phone jammers intended to interfere with United States cellular and Personal Communications Service frequencies.

Sections 4(i), 4(j), and 403 of the Act,⁴ afford the Commission broad authority to investigate the entities it regulates. Section 4(i) authorizes the Commission to “issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.” Section 4(j) states that “the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch business and to the ends of justice.” Section 403 grants the Commission “full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which

¹ Section 15.3(o) of the Rules defines an “intentional radiator” as a “device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3(o).

² Section 2.803(e)(4) of the Rules defines “marketing” as the “sale or lease, or offering to sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 C.F.R. § 2.803(e)(4).

³ Furthermore, section 2.803(g) of the Rules provides that radio frequency devices that could not be authorized or legally operated under the rules “shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.” 47 C.F.R. § 2.803(g).

⁴ 47 U.S.C. §§ 154 (i), 154 (j) and 403.

any question may arise under any of the provisions of this Act.” Pursuant to this authority, we sent you the November 6, 2007 LOI directing you to provide certain information and documents. Your email responses indicate that you received the LOI. However, your responses failed to address the questions set forth in the LOI. Accordingly, it appears that Phonejammer has violated Commission orders by failing to respond to Enforcement Bureau directives to provide certain information and documents.

A party may not ignore the directives in a Bureau inquiry letter.⁵ You are again ordered, pursuant to sections 4(i), 4(j) and 403 of the Act, to provide the information sought by our November 6, 2007 LOI. You must provide this information within 20 days of the date of this Citation. If sent by mail, this information should be sent to Zachary Rothstein, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-A326, Washington, D.C. 20554. Phonejammer must also transmit a copy of this information via facsimile to 202-418-7290.

If, after receipt of this citation, Phonejammer.com violates the Communications Act or the Commission’s Rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.⁶

If you choose to do so, you may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission’s Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that Phonejammer.com is taking to ensure that it does not violate the Commission’s rules governing the marketing of radio frequency jamming devices in the future.

Please call Zachary Rothstein at 202-418-0608, if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission’s staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission’s rules.

⁵ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002). In *SBC Communications*, the Commission assessed a \$100,000 forfeiture against a carrier for its willful refusal to supply a sworn declaration in response to an Enforcement Bureau letter of inquiry. The Commission stated: “[T]he order here was squarely within the Commission’s authority and, in any event, parties are required to comply with Commission orders even if they believe them to be outside the Commission’s authority.” *Id.* at 7591.

⁶ See 47 C.F.R. § 1.80(b)(3).

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau